



**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 52**

**[EPA-R05-OAR-2018-0731; FRL-9998-49-Region 5]**

**Air Plan Approval; Minnesota; Flint Hills Sulfur Dioxide (SO<sub>2</sub>)**

**Revision**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is approving a revision to the Minnesota sulfur dioxide (SO<sub>2</sub>) State Implementation Plan (SIP) for the Flint Hills Resources, LLC Pine Bend Refinery (FHR) as submitted on October 23, 2018. The SIP revision pertains to the shutdown and replacement of certain equipment at the refinery as well as amendments to certain emission limits, resulting in an overall decrease of SO<sub>2</sub> emissions from FHR.

**DATES:** This final rule is effective on **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

**ADDRESSES:** EPA has established a docket for this action under Docket ID No. EPA-R05-OAR-2018-0731. All documents in the docket are listed on the [www.regulations.gov](http://www.regulations.gov) web site. Although listed in the index, some information is not publicly available, i.e., Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Certain

other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either through [www.regulations.gov](http://www.regulations.gov) or at the Environmental Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard, Chicago, Illinois 60604. This facility is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding Federal holidays. We recommend that you telephone Anthony Maietta, Environmental Protection Specialist, at (312) 353-8777 before visiting the Region 5 office.

**FOR FURTHER INFORMATION CONTACT:** Anthony Maietta, Environmental Protection Specialist, Control Strategies Section, Air Programs Branch (AR-18J), Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 353-8777, [maietta.anthony@epa.gov](mailto:maietta.anthony@epa.gov).

**SUPPLEMENTARY INFORMATION:** Throughout this document whenever "we," "us," or "our" is used, we mean EPA. This supplementary information section is arranged as follows:

- I. What is being addressed by this document?
- II. What comments did we receive on the proposed action?
- III. What action is EPA taking?
- IV. Incorporation by Reference.
- V. Statutory and Executive Order Reviews.

**I. What is being addressed by this document?**

On October 23, 2018, the Minnesota Pollution Control Agency (MPCA) submitted a request for EPA to approve into the Minnesota SIP the conditions cited as "Title I Condition: 40 CFR 50.4(SO<sub>2</sub> SIP); Title I Condition: 40 CFR 51; Title I Condition: 40 CFR pt. 52, subp. Y" in FHR's revised joint Title I/Title V document, Permit No. 03700011-102 (joint document 102). On May 16, 2019 (84 FR 22091), EPA proposed to approve MPCA's October 23, 2018 submittal.

MPCA's submittal demonstrated that joint document 102 contains amended SIP conditions that implement changes to technology at the plant as well as revise SO<sub>2</sub> emissions limits for existing equipment. MPCA's submittal demonstrated that the amended SIP revisions reduce allowable SIP-based SO<sub>2</sub> emissions by 7.9 pounds per hour or 119.8 tons per year. After review, EPA proposed to approve MPCA's request to revise Minnesota's SO<sub>2</sub> SIP for FHR, reflected in conditions labeled "Title I Condition: 40 CFR 50.4(SO<sub>2</sub> SIP); Title I Condition: 40 CFR 51; Title I Condition: 40 CFR pt. 52, subp. Y" in joint document 102.

## **II. What comments did we receive on the proposed action?**

Our May 16, 2019 proposed rule provided a 30-day review and comment period. The comment period closed on June 17, 2019. EPA received no comments on the proposed action.

## **III. What action is EPA taking?**

EPA is approving a revision to Minnesota's SO<sub>2</sub> SIP for FHR, as submitted by MPCA on October 23, 2018, and reflected in conditions labeled "Title I Condition: 40 CFR 50.4(SO<sub>2</sub> SIP); Title I Condition: 40 CFR 51; Title I Condition: 40 CFR pt. 52, subp. Y" in joint document 102.

#### **IV. Incorporation by Reference.**

In this rule, EPA is finalizing regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, EPA is finalizing the incorporation by reference of the Minnesota Regulations described in the amendments to 40 CFR part 52 set forth below. EPA has made, and will continue to make, these documents generally available through [www.regulations.gov](http://www.regulations.gov) and at the EPA Region 5 Office (please contact the person identified in the "For Further Information Contact" section of this preamble for more information). Therefore, these materials have been approved by EPA for inclusion in the State implementation plan, have been incorporated by reference by EPA into that plan, are fully federally enforceable under sections 110 and 113 of the Clean Air Act as of the effective date of the final rulemaking of EPA's approval, and will be incorporated by reference in the next update to the SIP compilation.<sup>1</sup>

#### **V. Statutory and Executive Order Reviews.**

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<sup>1</sup> 62 FR 27968 (May 22, 1997).

Under the Clean Air Act, the Administrator is required to approve a SIP submission that complies with the provisions of the Clean Air Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. Accordingly, this action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Is not an Executive Order 13771 (82 FR 9339, February 2, 2017) regulatory action because SIP approvals are exempted under Executive Order 12866;
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);

- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- Does not have federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act; and
- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those

areas of Indian country, the rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the Federal Register. A major rule cannot take effect until 60 days after it is published in the Federal Register. This action is not a "major rule" as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by **[insert date 60 days after date of publication in the Federal Register]**. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time

within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

**List of Subjects in 40 CFR Part 52**

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Reporting and recordkeeping requirements, Sulfur oxides.

Dated: August 6, 2019.

Cathy Stepp,  
Regional Administrator, Region 5.

40 CFR part 52 is amended as follows:

**PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS**

1. The authority citation for part 52 continues to read as follows:

**Authority:** 42 U.S.C. 7401 *et seq.*

2. In § 52.1220, the table in paragraph (d) is amended by revising the entry for “Flint Hills Resources Pine Bend, LLC” to read as follows:

**§ 52.1220 Identification of plan.**

\* \* \* \* \*

(d) \* \* \*

EPA--APPROVED MINNESOTA SOURCE-SPECIFIC PERMITS

Name of Source	Permit No.	State effective date	EPA approval date	Comments
* * * * *				
Flint Hills Resources Pine Bend, LLC.	03700011-102	10/5/2018	<u>[insert the date of publication in the Federal Register]</u> , [Insert Federal Register citation]	Only conditions cited as “Title I Condition: 40 CFR Section 50.4 (SO2 SIP); Title I Condition: 40 CFR 51; Title I Condition: 40 CFR pt. 52, subp. Y”
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